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How do I create a corporation?

You must prepare Articles of Incorporation and file the document with the Department of Commerce, Division of Corporations and Commercial Code. The Department of Commerce has

information on their website dealing with Articles of Incorporation, at <http://corporations.utah.gov/>.

What is the difference between an S and a C or regular corporation?

An S corporation is the incorporation of an ordinary business formed and operated under a state's general corporation law, but the corporation has applied to and been approved by the Internal Revenue Service to be taxed as an S corporation. An S corporation is generally treated like a partnership for federal income tax purposes. It files an "information" tax return to report its income and expenses, and is not separately taxed as a C corporation.

Income and expenses of an S corporation "flow through" to the shareholders in proportion to their share holdings, and profits are taxed to the shareholders at their individual tax rates. If an S corporation has shareholders that are not Utah residents, then the nonresident portion of the corporate income is subject to a withholding tax for the non-resident shareholders.

How do I create an S corporation?

You must apply to the Internal Revenue Service (IRS) on federal form 2553, Election by a Small Business Corporation. When you receive your approval for the S election from the IRS, please send a copy to the Tax Commission.

What is the corporate franchise tax?

The corporate franchise tax is a tax on the privilege or right to do business in Utah, and is based on net income. Every corporation must file a return and pay the tax each calendar or fiscal year, regardless of whether or not a profit was made or business was conducted. The tax rate is computed at 5% of net income with a \$100 minimum tax, whichever is greater.

Am I required to pay the minimum tax?

Generally, yes. Any corporation that is incorporated or qualified under the laws of Utah, or conducts business in Utah is required to file and pay the minimum tax. There are two exceptions:

- S corporations, and
- corporations that have obtained an exemption from franchise tax (usually non-profit

corporations), that have received an exempt ruling from the Tax Commission

Do I have to file if my corporation is inactive?

Yes. The tax is imposed for the right right to do business in Utah. A return must be filed and at least the minimum tax paid, whether you exercise your right to do business or not.

What are the prepayment requirements?

General Information

Every corporation having a Utah tax liability of \$3,000 or more in the current year, or which had a tax liability of \$3,000 or more in the previous year, must make quarterly estimated tax prepayments. The prepayments are due in four equal payments on the 15th day of the 4th, 6th, 9th, and 12th month of the corporation's taxable year. The quarterly prepayment amounts are based on 90% of the current year's tax or 100% of the prior year's tax.

A corporation is not subject to the prepayment requirements for the first year that the corporation is required to file a return in Utah, if the corporation makes a payment on or before the due date (without extension) equal to or greater than the minimum \$100. tax.

Due Dates

All calendar year corporation prepayments are due April 15, June 15, September 15, and December 15. Fiscal year corporation due dates vary according to the beginning month of the tax year. Fiscal year corporations may refer to the prepayment chart on the inside back cover of the coupon book for specific due dates of each prepayment.

How do I apply for a loss carryback?

Submit form [TC-20L, Utah Application for Refund from a Corporation Loss Carryback](#) , to claim any refund resulting from a Utah net loss carryback. Do not submit an amended return for the purpose of claiming a loss carryback refund.

A C corporation filing form TC-20 may be entitled to carry back a current-year loss against income

of the previous three years. The loss carryback is subject to a \$1,000,000 limitation. To claim a refund from a Utah net operating loss carryback, the corporation must file form [TC-20L, Utah Application for a Refund from a Corporation Loss Carryback](#).

Note: If there is a Utah net loss on line 12 of form TC-20, the corporation must carry the loss back (subject to a \$1,000,000 limitation), unless the corporation elected to forego the federal net operating loss carryback for federal purposes. The federal election applies to the Utah net operating loss unless on line 12 of form TC-20 for the loss year the corporation elects to forego the Utah net loss carryback. S corporations may not carry losses back or forward as such losses are passed thru to the shareholders.

Can I use an S corporation form if I'm a C corporation, or the other way around?

No. S corporations must use Form TC-20S. Regular or C corporations must use Form TC-20.

What information or other forms should I enclose with my state form?

- A copy of the first 4 pages of the federal return.
- Any supporting schedules that show differences in state and federal income, expenses, etc.
- Any documents supporting tax credits claimed on the return or making elections.

What is the difference between a corporate franchise tax return and a corporate income tax return?

From a functional view, there is no difference. The rate for both is 5% of taxable income or \$100, whichever is greater, and they use the same form. Any corporation, whether incorporated (domestic) or qualified (foreign or doing business in Utah), is required to file a franchise tax return. Foreign corporations must file franchise tax returns if they have a regular and established place of business or inventory, or own, rent, or lease property. Corporations subject to the income tax are corporations that derive income from Utah sources, but are not qualified or have a place of business in Utah. An example would be a trucking company that runs through Utah but has no fixed place of business in Utah.

I have received a notice requesting the filing of a corporate franchise tax return. My company went out of business years ago. How can I get the state to

stop sending me notices.

The fact that a corporation ceases to do business, sells or distributes its assets, does not relieve it of the liability for filing Utah corporate franchise tax returns and paying the taxes due. The corporation must be legally dissolved or suspended through the Department of Commerce before it is relieved of this responsibility. A tax clearance certificate must be obtained from the Tax Commission only if a foreign corporation. [Contact the Tax Commission](#) to receive a customized tax clearance application for your corporation. Forms for dissolving the corporation are available from the Department of Commerce.

The State Tax Commission is required to send delinquent notices until the corporation is either voluntarily or involuntarily dissolved. Also, if it is your desire to maintain this corporate shell for a future purpose, or to reserve this corporate name for future use, you must keep filing the returns and pay the taxes due, otherwise suspension of the corporate authority will occur.

For Annual Report requirements and dissolution requirements, contact the Department of Commerce at 801-530-4849.

How do I get a copy of my corporate franchise tax return which has already been filed?

- Complete form TC-880, Request for Tax Records.
- An officer of record must sign the form. An officer of record is anyone listed by the Department of Commerce as an officer in your corporation.
- You may request the records in person or by mail.
- There is a \$6.50 fee for each record requested.

How do I change the filing period or address for my corporation?

Send a letter requesting the change, be specific about the year end date desired. Include your corporation's Utah entity number, federal employer identification number (EIN), and the exact name of your corporation in your request.

I need an extension for my corporation and it is past the normal due date. What can I do?

Corporations are automatically allowed an extension of up to six months to file a return without filing an extension form. **This is an extension of time to file the return - NOT an extension of time to pay the taxes.**

To avoid penalty and interest, the prepayment requirements must be met on or before the original return due date and all returns must be filed within the six-month extension period.

How do I determine if an organization or corporation is exempt from Utah corporate income or franchise tax?

Non profit organizations are taxable unless an exemption has been issued by the Utah State Tax Commission. [Form TC-161, Utah Registration for Exemption from Corporate Franchise or Income Tax](#), must be submitted along with the appropriate documentation. The documentation required for each class of exempt organization is listed as follows:

- Organizations that meet the exempt requirements of IRS Code 501 must supply a copy of the IRS exemption approval letter.

- Those organizations that meet the exempt requirements of IRS Code 501 due to a group or blanket exemption must supply:

1. a copy of the IRS group exemption approval letter, and
2. a letter from the parent organization certifying that the organization is a duly authorized member of the exempt affiliated group

3. Farmers' cooperatives must provide a copy of their most recently filed federal income tax return (IRS 990-C). If the organization has not been in existence long enough to have filed a federal tax return, the cooperative must provide:

1. A letter from the IRS confirming the type of federal return required; or
2. A letter certifying the date the federal return 990-C will be filed.

3. Homeowners associations that file IRS Form 1120H must provide a copy of their most recently filed federal income tax return. If the organization has not been in existence long enough to have filed a federal tax return, the association must provide:

1. A letter from the IRS confirming the type of federal return required; or
2. A letter certifying the type of federal return (i.e. 1120, 1120H, 1120EZ, 990, 990T) the organization is required to file.

3. Insurance companies that are subject to and pay the insurance premium tax need only make a written request for the exemption. The Tax Commission will determine the exemption based upon the request and by verifying that the company has filed and paid Utah Insurance Premium Tax returns.

4. Municipal building authorities may be granted exemption from the tax for years beginning 1997. The governing body of the municipality must provide a certificate that the municipality organized the municipal building authority as defined in Utah Code Section 17A-3-902.

How do I legally dissolve or withdraw my corporation in Utah?

Utah Domestic Corporations

- File Articles of Dissolution with the Utah Department of Commerce.

Foreign Corporations Qualified in Utah

- File form TC-2001, Application for Tax Clearance, with the Utah State Tax Commission. [Contact the Tax Commission](#) to receive a customized tax clearance application for your corporation.

- File your Tax Clearance Certificate and an Application for Withdrawal with the Utah Department of Commerce.

How do I reinstate my corporation?

First, contact the Department of Commerce, Division of Corporations and Commercial Code, to ensure your corporation can be reinstated. The Department of Commerce has time limitations on reinstatement. If reinstatement is a viable option, the Department of Commerce may require a [Letter of Good Standing](#)

from the Tax Commission.

[Click here](#)

for information on how to obtain a Letter of Good Standing.

We received a penalty for filing late and don't feel it is applicable. What can we do?

Also see: [Publication 17, "Waivers, Reasonable Cause"](#)

You have the right to request a waiver of the penalties and/or interest, but the request must be in written form. Include your account number, the tax period, supportive documentation (if any), and state your reason why you believe the penalty and/or interest is unjust. Address your letter to:

Utah State Tax Commission
Collections Division, Waiver Section
210 North 1950 West
Salt Lake City, UT 84134

I have received a notice requesting the filing of a franchise tax return for MM-YY period. My corporation did not start conducting business until after this date. Why am I receiving this notice?

- The first franchise tax return for a corporation must begin on the date of incorporation in Utah, or the date the foreign corporation was qualified or began doing business in Utah, whichever was earlier.
- The first return must end on the last day of the calendar month chosen as the taxable year end, and it cannot cover a period of more than twelve calendar months.
- This return must be filed and the minimum \$100 tax paid, whether or not any business was transacted and whether or not a profit was made.
- Failure to file the return or pay the tax due may result in suspension, penalties, and interest. Penalties may include: a late filing penalty of \$20 or 10% of tax due, whichever is greater and a late payment penalty of \$20 or 10% of tax due, whichever is greater. Interest is computed on the tax amount owing at a variable rate set by the state from the due date of the return to the date of payment.

What is the franchise tax shown on my utility bill?

This is not a state tax administered by the Tax Commission. The tax is levied by the municipality (city or county) against the utility company for their right to do business in that municipality. The State Public Service Commission requires that this tax be separately stated on the billing.

I have received a notice from your office stating, "My corporate tax return has not been filed". I filed the return early this year and paid \$15 or \$20.

The form you filed was probably the Annual Report of Officers and Directors, filed with the Department of Commerce. The notice you received is referring to is the corporation franchise tax

return (Form TC-20) due to the Tax Commission.